

#### REMARKS

Favorable reconsideration of this application is respectfully requested.

Applicant acknowledges with appreciation the Examiner's indication of allowable subject matter in Claims 23-26. These claims, however, have been retained in dependent form in view of the arguments presented below.

Claims 1 and 3-26 are pending, with Claims 1, 10, and 20 being independent. Claims 10 and 20 have been amended to clarify the invention intended to be claimed and without regard to the outstanding rejections.

Claims 1, 3-5, 8, and 9 stand rejected, presumably under 35 U.S.C. § 103(a) over Miao in view Chiruvolu.<sup>1</sup> Claim 6 stands rejected under 35 U.S.C. § 103(a) over Miao in view of Chen.<sup>2</sup> Claims 7<sup>3</sup> and 10-22 stand rejected under 35 U.S.C. § 103(a) over Miao in view of Strawn. Applicant respectfully traverses the rejections.

Claim 1 recites that the second node includes a buffer that is configurable to adjust to network packet delay variance through analysis of a packet delay variance measurement, as measured over at least one period of time.

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<sup>1</sup> The rejection indicates that the claims are rejected under 35 U.S.C. § 102(b).

<sup>2</sup> Presumably the rejection is intended to be over Miao and Chiruvolu, further in view of Chen.

<sup>3</sup> It is unclear exactly which references the rejection intends to apply to reject Claim 7, since Claim 7 depends from Claims 1, 3, and 5 (directly).

Claim 1 further recites that the packet delay variance measurement includes monitoring, for the at least one period of time, a buffer depth of the buffer, wherein the buffer depth is a temporal measurement of a delay that a data packet encounters from when the data packet is received by the buffer to when the data packet is serialized.

The rejection appropriately acknowledges that Miao fails to teach or suggest Applicant's claimed monitoring a buffer depth as particularly recited in Claim 1. See Office Action, p. 4. The cited portion of Chiruvolu is not seen to cure the acknowledged deficiencies in Miao.

Specifically, the cited portion of Chiruvolu discloses active queue management algorithms that involve either "[c]ongestion detection [] based on buffer monitoring by setting a threshold value for buffer occupancy" or calculating an average queue size. See Chiruvolu, col. 2, lines 39-60.

But neither "buffer occupancy" nor "average queue size" as disclosed by Chiruvolu is understood to be the same as Applicant's claimed buffer depth, which, as claimed, is defined as a temporal measurement of a delay that a data packet encounters from when the data packet is received by the buffer to when the data packet is serialized.

Accordingly, Claim 1 distinguishes patentably from Miao and Chiruvolu. The Chen and Strawn references applied to reject other claims are not seen to cure the deficiencies noted above in Miao and Chiruvolu. Independent Claim 1 and its dependents are therefore allowable.

Turning now to independent Claims 10 and 20, Claim 10 recites, *inter alia*, (b) measuring buffer depth over a period of time, the buffer depth being a temporal measurement of a delay that a data packet encounters from when the data packet is received by said buffer to when the data packet is serialized; and (d) adjusting the first, second, and third parameters and said clock according to the measured buffer depth. Similarly, Claim 20 recites (e) periodically measuring buffer depth, and adjusting the buffer configuration based on results of said periodic buffer depth measurements, wherein the buffer depth is a temporal measurement of a delay that the data packet encounters from when the data packet is received by said buffer to when the data packet is serialized.

Contrary to the rejection's assertion, Miao fails to teach or suggest the foregoing features of Claims 10 and 20.

In particular, Miao simply does not teach or suggest measuring a buffer depth, periodically or otherwise, and adjusting either the first, second, and third parameters (as

in Claim 10) or the buffer configuration (as in Claim 20) based on the buffer depth measuring. Rather, Miao discloses assigning an additional delay  $t_a$  to each packet to be experienced in the buffer based on an optimal delay  $t_{ed}$  and a determined network delay  $t_n$  (i.e., the delay of a packet from a transmission node to a receiving node). See, e.g., Miao, col. 5, lines 4-19. Miao's network delay  $t_n$  is not the same as Applicant's claimed buffer depth. Furthermore, assigning an additional delay  $t_a$  to each packet, as disclosed in Miao, is not the same as measuring buffer depth as particularly recited in Applicant's claims. Therefore, Miao clearly fails to teach or suggest the aforementioned features of Claims 10 and 20.

The Strawn reference used as a secondary reference to reject Claims 10 and 20 fails to cure the deficiencies in Miao noted above. Furthermore, the Chiruvolu and Chen references used to reject other claims also fail to cure the deficiencies in Miao discussed above.

Accordingly, independent Claims 10 and 20 and their respective dependents distinguish patentably from the applied references and are allowable.

In view of the foregoing, this application is believed to be in condition for allowance.

A prompt Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (A-10046) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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